IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 23899 of 2004

Between:

1. K.Masanna,

   s/o Balaiah,
   Working at Rechintala PACS,

   Atmakur Mandal, Mahaboobnagar District.
2. Md.Mahaboob Ali, s/o Sandu Saheb,
   Working at Rechintala PACS,

   Atmakur Mandal, Mahaboobnagar District.

..... PETITIONERS

AND

1. The District Cooperative Officer,

   Mahaboobnagar District at Mahaboobnagar.
2. The Divisional Cooperative Officer,

   Wanaparthy, Mahaboobnagar District.
3. The Rechintala PACS Atmakur Mandal,

   Mahaboobnagar District
   Rep., by its Chairman/Manager,

   State Bank of Hyderabad, Atmakur, Mahabubnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the impugned action of 3rd respondent in issuing impugned

proceedings/resolution dated 22-7-2004 terminating the petitioners services without any notice or opportunity after long spell of 22 and 12 years as highly illegal, arbitrary and violative of Art.14 and 21 of the Constitution of India apart from contrary to the provisions of A.P.Shops and Establishment Act and also judgment of the Hon'ble Supreme Court in Basudeo Tiwari Vs.Sido Kanhu University reported in 1988 AIR SCW 3186 and set aside the same and pass such other order or orders

Counsel for the Petitioner: MR.G.V.SHIVAJI

Counsel for the Respondents 1 & 2: GP FOR COOPERATION

The Court at the admission stage, made the following:

HONOURABLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 23899 of 2004

ORDER:

Challenging the action of the third respondent in issuing the impugned resolution dated 22.07.2004 by which the petitioners' services were terminated without notice or opportunity, the present writ petition is filed.

2. The learned counsel for the petitioners contended that the staffing pattern is to be approved by the competent authority. Without any notice of whatsoever, the present petitioners were sought to be terminated by way of impugned resolution.

3. On the other hand, the learned Government Pleader for Cooperation appearing for the respondents contended that the committee has passed resolution considering the financial viability of the society and necessary orders of termination have to be issued by the competent authority by following the procedure.

4. The facts are not in dispute. The impugned proceeding is only a resolution passed by the committee, as the society was not able to meet the expenses and pay of the employees. As per the provisions of Section 116 C of the APCS Act, the committee passed a resolution to terminate the employees

after following the procedure. As rightly contended by the learned Government Pleader for Cooperation, the writ petition is premature, since no termination orders have been passed by the competent authority.

5. Therefore, the writ petition is dismissed. However, it is made clear that while terminating the petitioners, the respondents should follow the procedure contemplated under the Act and the Rules. No costs.

22nd December, 2004. ----------

SKM K.C.BHANU, J

TO

1. The District Cooperative Officer,

   Mahaboobnagar District at Mahaboobnagar.
2 The Divisional Cooperative Officer,

   Wanaparthy, Mahaboobnagar District.
3 The Chairman/Manager, Rechintala PACS Atmakur Mandal,

   Mahaboobnagar District,

   State Bank of Hyderabad, Atmakur, Mahabubnagar Dist.

4 Two C.Cs to the GP for Co-operation, AP High Court

Buildings, High Court of AP, Hyderabad (O.U.T.)

5 Two C.D. Copies.